

Item SPR05-23 Response Form

Title: Electronic Filing and Service (amend Cal. Rules of Court, rules 2050 and 2056)

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **only if modified**
- ☐ **Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Romunda Price,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Romunda Price
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 p.m., Monday, June 20, 2005

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council, the Rules and Projects Committee, or the Policy Coordination and Liaison Committee.
All comments will become part of the public record of the council's action..*

Invitation to Comment (SPR05-23)

Title	Electronic Filing and Service (amend Cal. Rules of Court, rules 2050 and 2056)
Summary	<p>The proposed amendment to rule 2050 would give parties the option of electronically filing documents with the court or electronically serving notices by using a third-party electronic filing service provider.</p> <p>The proposed amendment to rule 2056 would extend the date by which courts must allow full text searching of electronically filed documents to January 1, 2010, and would require that the printing of documents not result in loss of document text.</p>
Source	Court Technology Advisory Committee
Staff	Jane Evans 415-865-7414, jane.evans@jud.ca.gov
Discussion	<p><i>Rule 2050</i></p> <p>Parties planning to electronically file documents with the court or electronically serve notice may prefer to use the services provided by an intermediary, in the same manner that parties faxing documents to the court may use a fax filing service, rather than faxing directly. Rule 2050 defines an electronic filer as a party filing a document in the court, but does not allow for filing through an agency. (Cal. Rules of Ct., rule 2050(c).)</p> <p>Rule 2005(a) allows fax filing through an agency, and Rule 2008(c) allows fax service by the court. Commercial electronic filing service providers would like to be able to offer similar filing and service assistance to courts and parties that fax filing agencies are allowed to do under rule 2005(a) and rule 2008(a). Parties and the courts would benefit from such an electronic filing option.</p> <p>The proposal would define electronic filing service provider and amend electronic service to include service through a service provider, similar to the definition of a fax filing agency in rule 2003(8). The amendment would provide that the electronic filing service provider acts as an agent of the electronic filer and not as an agent of the court.</p> <p><i>Rule 2056(b)</i></p> <p>The format of a document filed electronically is not required to be full</p>

Invitation to Comment (SPR05-23)

text searchable until January 1, 2007, under rule 2056(b)(2). When this requirement was adopted effective 2002, courts were using case management systems that could not meet the requirement. At that time, the statewide Tactical Plan for Court Technology envisioned using vendor-developed certified case management systems. Subsequently, the Judicial Council approved a statewide initiative to develop the California Case Management System (CCMS), scheduled for full development and rollout in all superior courts by the end of 2009.

Meeting the 2007 deadline conflicts with the rollout schedule for the CCMS. In addition, some courts are now starting electronic filing projects using their existing systems that cannot easily accommodate full text searching. Using currently available technology, courts are either converting electronic text documents to PDF or are scanning and imaging paper documents. A requirement for full text searching of these documents would mean that the court would then have to complete an additional process to convert the scanned document back to searchable text by optical character recognition for imaged documents, which results in possible degradation of the text, so that the information may no longer be accurate.

This proposal would postpone the implementation date for full text searching to January 1, 2010, to allow the completion of the development of CCMS, and to allow time for court documents to be more easily full-text searchable with XML-tagged fields.

Rule 2056(b)(3) would also be amended to reflect that printing must not result in loss of document text. The current requirement for no loss of document “content” is incompatible with the technical changes that occur in the metadata, which is part of the document content, each time a document is printed. Change in metadata has no effect on document text.

Attachment

Rules 2050 and 2056 of the California Rules of Court would be amended, effective January 1, 2006, to read:

Rule 2050. Definitions

As used in this chapter, unless the context requires otherwise:

(a) ***

(b) **[Document]** A “document” is a pleading, a paper, a declaration, an exhibit, or another filing submitted by a party or by an agent of a party on the party’s behalf. A document may be in paper or electronic form.

(c) **[Electronic filer]** An “electronic filer” is a party filing a document in electronic form with the court.

(d) **[Electronic filing]** “Electronic filing” is the electronic transmission to a court of a document in electronic form.

(e) **[Electronic filing service provider]** An “electronic filing service provider” is a person or entity that receives an electronic filing from a party for re-transmission to the court. In submission of filings the electronic filing service provider acts as the agent of the electronic filer and not as an agent of the court.

(e)(f) **[Electronic service]** “Electronic service” is the electronic transmission of a document to a party’s electronic notification address, either directly or through an electronic filing service provider, for the purpose of effecting service.

(f)(g) **[Party]** A “party” is a person appearing in any action or proceeding in pro per or an attorney of record for a party in any action or proceeding.

(g)(h) **[Regular filing hours]** “Regular filing hours” are the hours during which a court accepts documents for filing.

(h)(i) **[These rules]** “These rules” are the rules in this chapter.

1 Rule 2056. Responsibilities of electronic filer

2
3 (a) ***

4
5 (b) **[Format of documents to be filed electronically]** A document that is filed
6 electronically with the court must be in a format specified by the court unless it
7 cannot be created in that format. The format adopted by a court must meet the
8 following requirements:

9
10 (1) ***

11
12 (2) By January 1, ~~2007~~2010, any format adopted by the court must allow for
13 full text searching. Documents not available in a format that permits full
14 text searching must be scanned or imaged as required by the court, unless
15 the court orders that scanning or imaging would be unduly burdensome.
16 By January 1, ~~2007~~2010, such scanning or imaging must allow for full
17 text searching to the extent feasible.

18
19 (3) The printing of documents must not result in the loss of document ~~content~~
20 text, format, or appearance.